

118TH CONGRESS
1ST SESSION

S. _____

To exempt certain entities from liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 for the release of certain perfluoroalkyl or polyfluoroalkyl substances, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. LUMMIS introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To exempt certain entities from liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 for the release of certain perfluoroalkyl or polyfluoroalkyl substances, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fire Suppression
5 PFAS Liability Protection Act”.

6 **SEC. 2. EXEMPTION UNDER CERCLA.**

7 (a) DEFINITIONS.—In this section:

1 (1) COVERED PERFLUOROALKYL OR
2 POLYFLUOROALKYL SUBSTANCE.—The term “cov-
3 ered perfluoroalkyl or polyfluoroalkyl substance”
4 means a non-polymeric perfluoroalkyl or
5 polyfluoroalkyl substance that contains at least 2 se-
6 quential fully fluorinated carbon atoms, excluding
7 gases and volatile liquids, that is a hazardous sub-
8 stance (as defined in section 101 of the Comprehen-
9 sive Environmental Response, Compensation, and
10 Liability Act of 1980 (42 U.S.C. 9601)).

11 (2) INDIAN TRIBE.—The term “Indian Tribe”
12 has the meaning given the term in section 4 of the
13 Indian Self-Determination and Education Assistance
14 Act (25 U.S.C. 5304).

15 (3) LAWFUL DISCHARGE.—The term “lawful
16 discharge”, with respect to an aqueous film forming
17 foam agent, means a release of the aqueous film
18 forming foam agent through equipment calibration,
19 firefighter training, a timed-response drill, a sched-
20 uled release, an emergency response activity, or the
21 use of a fire suppression system.

22 (4) PROTECTED ENTITY.—The term “protected
23 entity” means an entity with a fire suppression sys-
24 tem installed, or otherwise in use, in accordance with
25 applicable Federal, State, and local fire codes that

1 uses an aqueous film forming foam that contains a
2 covered perfluoroalkyl or polyfluoroalkyl substance.

3 (b) EXEMPTION.—Subject to subsection (c), no per-
4 son (including the United States, any State, or an Indian
5 Tribe) may recover costs or damages from a protected en-
6 tity under the Comprehensive Environmental Response,
7 Compensation, and Liability Act of 1980 (42 U.S.C. 9601
8 et seq.) for costs arising from a release to the environment
9 of a covered perfluoroalkyl or polyfluoroalkyl substance.

10 (c) REQUIREMENT.—Subsection (b) shall only apply
11 if the release of the covered perfluoroalkyl or
12 polyfluoroalkyl substance resulted from the lawful dis-
13 charge of an aqueous film forming foam in connection with
14 a fire suppression system that—

15 (1) conforms to applicable Federal, State, and
16 local fire codes; and

17 (2) is compliant with the most recently ap-
18 proved engineering standards at the time of the dis-
19 charge.

20 (d) SAVINGS PROVISION.—Nothing in this section
21 precludes liability for damages or costs associated with the
22 release of a covered perfluoroalkyl or polyfluoroalkyl sub-
23 stance by a protected entity if the protected entity—

1 (1) acts with gross negligence or willful mis-
2 conduct in the discharge of the covered
3 perfluoroalkyl or polyfluoroalkyl substance; or

4 (2) continues to use an aqueous film forming
5 foam agent in the fire suppression system of the
6 protected entity on or after the date that is 5 years
7 after the date on which approved engineering stand-
8 ards were updated to no longer require the use of an
9 aqueous film forming foam.